

Dkt. 0763/74768-BAA-PCT-US/JPW/GJG/JRM

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang

Serial No. : 10/821,710 Examiner: Schnizer, Richard A.

Filed : April 8, 2004 Art Unit: 1635

For : CONTROL OF GENE EXPRESSION

1185 Avenue of the Americas  
New York, New York 10036  
December 12, 2007

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48(a)

This Request to Correct Inventorship Under 37 C.F.R. §1.48(a) is submitted in order to correct an error in the inventorship currently listed for the above-identified application.

Michael Wayne Graham and Robert Norman Rice are currently named as the inventors on the subject application.

In accordance with 37 C.F.R. §1.48(a)(1), applicants hereby request that Peter Michael Waterhouse and Ming-Bo Wang be added as inventors of the invention claimed in the subject application.

Applicants attach hereto as Exhibit A a Statement By Peter Michael Waterhouse Under 37 C.F.R. §1.48(a)(2), including Exhibit 1 which states that the error in failing to name him as an inventor occurred without deceptive intent on his part.

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang  
Serial No. : 10/821,710  
Filed : April 8, 2004  
Page 2 of 3 of December 12, 2007 Request To Correct Inventorship Under 37 C.F.R. §1.48(a)

Applicants also attach hereto as Exhibit B a Statement By Ming-Bo Wang Under 37 C.F.R. §1.48(a)(2), including Exhibit 1 which states that the error in failing to name him as an inventor occurred without deceptive intent on his part.

In accordance with 37 C.F.R. §1.48(a)(3), applicants attach hereto as Exhibit C a new inventors' Declaration signed by both Peter Michael Waterhouse and Ming-Bo Wang as required by 37 C.F.R. §1.63.

The inventors currently named in the subject application, i.e. Michael Wayne Graham and Robert Norman Rice, have assigned their rights to Commonwealth Scientific And Industrial Research Organisation. Pursuant to 37 C.F.R. §1.48(a)(5), applicants attach hereto as Exhibit D a Consent Of Assignee Under 37 C.F.R. §3.73, including Exhibits 1 to 3.

According to 37 C.F.R. §1.48(a)(4), the Request must be accompanied by the processing fee set forth in §1.17(i), i.e. \$130.00. A check for this amount is enclosed.

Applicants also respectfully request that the United States Patent and Trademark Office issue a corrected filing receipt upon entry of this Request.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang  
Serial No. : 10/821,710  
Filed : April 8, 2004  
Page 3 of 3 of December 12, 2007 Request To Correct Inventorship  
Under 37 C.F.R. §1.48(a)

No fee, other than the enclosed \$130.00 processing fee, is deemed necessary in connection with the filing of this Request. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



John P. White  
Registration No. 28,678  
Gary J. Gershik  
Registration No. 39,992  
Attorneys for Applicants  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, New York 10036  
(212) 278-0400

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

  
Gary J. Gershik

Date

Reg. No. 39,992

# Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang  
Serial No. : 10/821,710 Examiner: Schnizer, Richard A.  
Filed : April 8, 2004 Art Unit: 1635  
For : CONTROL OF GENE EXPRESSION

1185 Avenue of the Americas  
New York, New York 10036

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

STATEMENT BY PETER MICHAEL WATERHOUSE UNDER 37 C.F.R. §1.48(a)(2)

I, Peter Michael Waterhouse, hereby state as follows:

1. I understand that I am being added as an inventor of the subject matter claimed in the above-identified patent application, the currently pending claims of which are attached hereto as Exhibit 1.
2. The error in failing to name me as an inventor occurred without deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the subject application or any patent issued thereon.

  
Peter Michael Waterhouse

Date: 27<sup>th</sup> Sept 2007

Applicants : Michael Wayne Graham et al.  
U.S. Serial No. : 10/821,710  
Filed : April 8, 2004

# **EXHIBIT 1**

Applicants : Michael Wayne Graham and Robert Norman Rice  
Serial No. : 10/821,710  
Filed : April 8, 2004  
Page 2 of 13 of July 12, 2007 Amendment

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JUL 25 2007

In the Claims

Please replace the currently pending set of claims with the set of claims set forth below without prejudice under the provisions of 37 C.F.R. § 1.121:

1-43. (Cancelled)

44. (Previously presented) An isolated nucleic acid comprising: a first ribonucleotide (RNA) sequence of greater than 20 consecutive nucleotides which is identical in sequence to a region of a transcript of a target gene in a eukaryotic cell, and

a second RNA sequence which is complementary to said first RNA sequence, and  
an intron,

wherein the first and second RNA sequences are in the same nucleic acid strand and are separated by a stuffer fragment which comprises a sequence of nucleotides.

45-76. (Cancelled)

77. (Previously presented) The nucleic acid molecule of claim 44, wherein the target gene is a viral gene.

78. (Previously presented) The nucleic acid molecule of claim 44, wherein the target gene is a nucleotide sequence of a viral pathogen of a plant.

79. (Previously presented) The nucleic acid molecule of claim 78, wherein the viral pathogen is a potyvirus, caulimovirus, badnavirus, geminivirus, reovirus, rhabdovirus, Bunyavirus, tospovirus, tenuivirus, tombusvirus, luteovirus, sobemovirus, bromovirus, cucomovirus, ilavirus, alfamovirus, tobamovirus, tobaviruses, potexvirus or clostrovirus.

Applicants : Michael Wayne Graham and Robert Norman Rice

Serial No. : 10/821,710

Filed : April 8, 2004

Page 3 of 13 of July 12, 2007 Amendment

80. (Previously presented) The nucleic acid molecule of claim 44, wherein the target gene is a nucleotide sequence of a viral pathogen of an animal cell.
81. (Previously presented) The nucleic acid molecule of claim 80, wherein the viral pathogen is a retrovirus.
82. (Previously presented) The nucleic acid molecule of claim 80, wherein the viral pathogen is an immuno deficiency virus.
83. (Previously presented) The nucleic acid molecule of claim 44, wherein the target gene is a nucleotide sequence of a single-stranded (+) RNA virus.
84. (Previously presented) The nucleic acid molecule of claim 44, wherein the target gene is a nucleotide sequence of a double-stranded DNA virus.
85. (Previously presented) The nucleic acid molecule of claim 44, wherein the target gene is a transgene in the eukaryotic cell.
86. (Previously presented) The nucleic acid molecule of claim 44, wherein the target gene is a member of a multigene family in the eukaryotic cell.
87. (Previously presented) The nucleic acid molecule of claim 44, wherein the target gene is an endogenous gene of the eukaryotic cell.
88. (Previously presented) The nucleic acid molecule of claim 44, wherein the eukaryotic cell is a plant cell.

Applicants : Michael Wayne Graham and Robert Norman Rice  
Serial No. : 10/821,710  
Filed : April 8, 2004  
Page 4 of 13 of July 12, 2007 Amendment

89. (Previously presented) The nucleic acid molecule of claim 88, wherein the plant is a monocotyledonous plant of a dicotyledonous plant.
90. (Previously presented) The nucleic acid molecule of claim 44, wherein the eukaryotic cell is an animal cell.
91. (Previously presented) The nucleic acid molecule of claim 90, wherein the animal is a vertebrate animal.
92. (Previously presented) The nucleic acid molecule of claim 90, wherein the animal is an invertebrate animal.
93. (Previously presented) The nucleic acid molecule of claim 90, wherein the animal is an aquatic animal.
94. (Previously presented) The nucleic acid molecule of claim 90, wherein the animal is an insect.
95. (Previously presented) The nucleic acid molecule of claim 90, wherein the animal is a fish.
96. (Previously presented) The nucleic acid molecule of claim 90, wherein the animal is an avian animal.
97. (Previously presented) The nucleic acid molecule of claim 90, wherein the animal is a mammal.
98. (Previously presented) The nucleic acid molecule of claim 44, wherein the eukaryotic cell is a human cell.
99. (Previously presented) The nucleic acid molecule of claim 44, wherein the region of the transcript corresponds to coding regions of the target gene.

Applicants : Michael Wayne Graham and Robert Norman Rice

Serial No. : 10/821,710

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Page 5 of 13 of July 12, 2007 Amendment

100. (Previously presented) The nucleic acid molecule of claim 44, wherein the region of the transcript corresponds to a 5'-or 3'-untranslated sequence of the target gene.

101. (Cancelled)

102. (Previously presented) The nucleic acid molecule of claim 44, wherein the stuffer fragment is a sequence of nucleotides 10-15 nucleotides in length, 50-100 nucleotides in length, or 100-500 nucleotides in length.

103. (Cancelled)

104. (Previously presented) The nucleic acid molecule of claim 44, wherein the total length of the nucleic acid molecules is no more than 2.0 kilobases.

105. (Previously presented) The nucleic acid molecule of claim 104, wherein the total length of the nucleic acid molecule is no more than 0.5 kilobases.

106. (Previously presented) The nucleic acid molecule of claim 44, which is naked RNA.

107. (Previously presented) The nucleic acid molecule of claim 44, which is encapsulated in a liposome.

108. (Previously presented) The nucleic acid molecule of claim 44, which is in a virus particle which is an attenuated virus or associated with a virus coat.

109. (Previously presented) The nucleic acid molecule of claim 44, which is comprised in a recombinant viral vector.

Applicants : Michael Wayne Graham and Robert Norman Rice  
Serial No. : 10/821,710  
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Page 6 of 13 of July 12, 2007 Amendment

110. (Previously presented) The nucleic acid molecule of claim 44, which is in a cell.

111. (Previously presented) A composition comprising a carrier, excipient or diluent acceptable for human or veterinary applications and the nucleic acid molecule of claim 44.

112. (Previously presented) A synthetic construct comprising a promoter which is operable in a eukaryotic cell, operably linked to a nucleotide sequence encoding the nucleic acid molecule of claim 44.

113. (Previously presented) The synthetic genetic construct of claim 112, which is in a eukaryotic cell.

114-141. (Cancelled)

# Exhibit **B**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang

Serial No. : 10/821,710 Examiner: Schnizer, Richard A.

Filed : April 8, 2004 Art Unit: 1635

For : CONTROL OF GENE EXPRESSION

1185 Avenue of the Americas  
New York, New York 10036

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

STATEMENT BY MING-BO WANG UNDER 37 C.F.R. §1.48(a)(2)

I, Ming-Bo Wang, hereby state as follows:

1. I understand that I am being added as an inventor of the subject matter claimed in the above-identified patent application, the currently pending claims of which are attached hereto as Exhibit 1.
2. The error in failing to name me as an inventor occurred without deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the subject application or any patent issued thereon.

Ming-Bo Wang  
Ming-Bo Wang

Date: 14/09/2007

Applicants : Michael Wayne Graham et al.  
U.S. Serial No. : 10/821,710  
Filed : April 8, 2004

# **EXHIBIT 1**

Applicants : Michael Wayne Graham and Robert Norman Rice  
Serial No. : 10/821,710  
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113. (Previously presented) The synthetic genetic construct of claim 112, which is in a eukaryotic cell.

114-141. (Cancelled)

# Exhibit C

**DECLARATION AND POWER OF ATTORNEY**

*As a below-named inventor, I hereby declare that:*

*My residence, post office address, and citizenship are as stated below next to my name.*

*I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:*

**CONTROL OF GENE EXPRESSION**

*the specification of which:*

*(check one)*

       *is attached hereto.*

X *was filed on* April 8, 2004 *as*

*Application Serial No.* 10/821,710

*and was amended*

       *(if applicable)*

*I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.*

*I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.*

*I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International Application which designated at least one country other than the United States, listed below. I have also identified below any foreign application for patent or inventor's certificate, or PCT International Application having a filing date before that of the earliest application from which priority is claimed:*

**Prior Foreign Application(s)**

**Priority Claimed**

<u>Number</u>	<u>Country</u>	<u>Filing Date</u>	<u>Yes</u>	<u>No</u>
PP2492	Australia	March 20, 1998	X	—
PP2499	Australia	March 20, 1998	X	—
PCT/AU99/00195	PCT	March 19, 1999	X	—
			—	—
			—	—

*JPW Rev. 2/1/07*

Applicants : Michael Wayne Graham et al.  
U.S. Serial No. : 10/821,710  
Filed : April 8, 2004

**Exhibit C**

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

<u>Provisional Application No.</u>	<u>Filing Date</u>	<u>Status</u>
N/A		

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States Application(s), or Section 365(c) of any PCT International Application(s) designating the United States listed below. Insofar as this application discloses and claims subject matter in addition to that disclosed in any such prior Application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56, which became available between the filing date(s) of such prior Application(s) and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
10/646,070	August 22, 2003	Pending
09/646,807	December 5, 2000	Pending
09/100,812	June 19, 1998	Pending as of December 5, 2000
09/100,813	June 19, 1998	Pending as of March 19, 1999
PCT/AU99/00195	March 19, 1999	Pending as of September 20, 2000

And I hereby appoint

John P. White (Reg. No. 28,678); Christopher C. Dunham (Reg. No. 22,031); Norman H. Zivin (Reg. No. 25,385); William E. Pelton (Reg. No. 25,702); Robert D. Katz (Reg. No. 30,141); Paul Teng (Reg. No. 40,837); Gary J. Gershik (Reg. No. 39,992); and Peter J. Phillips (Reg. No. 29,691).

and each of them, all c/o Cooper & Dunham LLP, 1185 Avenue of the Americas, New York, New York 10036, my attorneys, each with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, to transact all business in the Patent and Trademark Office connected therewith and to file any International Applications which are based thereon under the provisions of the Patent Cooperation Treaty.

Please address all communications, and direct all telephone calls, regarding this application to:

John P. White, Esq. Reg. No. 28,678  
 Cooper & Dunham, LLP (Customer Number 23432)  
 1185 Avenue of the Americas  
 New York, New York 10036  
 Tel. (212) 278-0400

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first joint inventor Michael Wayne Graham  
 Inventor's signature \_\_\_\_\_ Date of signature \_\_\_\_\_  
 Citizenship Australian  
 Residence Jindalee, Queensland, Australia  
 Post Office Address 38 Cobbadah Street, Jindalee, Queensland 4074, Australia  
 \_\_\_\_\_

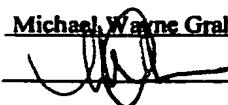
Full name of additional joint inventor (if any) Robert Norman Rice  
 Inventor's signature R.N.Rice Date of signature 27/07/2007  
 Citizenship Australian  
 Residence Sinnamon Park, Queensland, Australia  
 Post Office Address 39 Foley Place, Sinnamon Park, Queensland 4106, Australia  
 \_\_\_\_\_

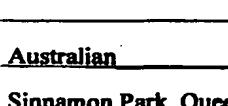
Full name of additional joint inventor (if any) Peter Michael Waterhouse  
 Inventor's signature \_\_\_\_\_ Date of signature \_\_\_\_\_  
 Citizenship British  
 Residence Canberra, ACT, Australia  
 Post Office Address 5 Banjine Street, O.Connor, Canberra, ACT 2602, Australia  
 \_\_\_\_\_

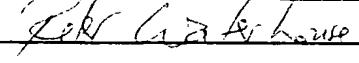
Please address all communications, and direct all telephone calls, regarding this application to:

John P. White, Esq. Reg. No. 28,678  
Cooper & Dunham, LLP (Customer Number 23432)  
1185 Avenue of the Americas  
New York, New York 10036  
Tel. (212) 278-0400

*I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.*

*Full name of sole or first joint inventor* Michael Wayne Graham  
*Inventor's signature*  *Date of signature* 12/9/07  
*Citizenship* Australian  
*Residence* Jindalee, Queensland, Australia  
*Post Office Address* 38 Cobbadah Street, Jindalee, Queensland 4074, Australia

*Full name of additional joint inventor (if any)* Robert Norman Rice  
*Inventor's signature*  *Date of signature* \_\_\_\_\_  
*Citizenship* Australian  
*Residence* Sinnamon Park, Queensland, Australia  
*Post Office Address* 39 Foley Place, Sinnamon Park, Queensland 4106, Australia

*Full name of additional joint inventor (if any)* Peter Michael Waterhouse  
*Inventor's signature*  *Date of signature* 27/9/2007  
*Citizenship* British  
*Residence* Canberra, ACT, Australia  
*Post Office Address* 5 Banjine Street, O'Connor, Canberra, ACT 2602, Australia

*Declaration and Power of Attorney*

*Page 4*

*Full name of additional  
joint inventor (if any)*

Ming-Bo Wang

*Inventor's signature*

Ming-Bo Wang

*Date of signature* 14/09/2007

*Citizenship*

Australian

*Residence*

Kaleen, ACT, Australia

*Post Office Address*

3 Kiewa Street, Kaleen, ACT 2617 Australia

*Full name of additional  
joint inventor (if any)*

\_\_\_\_\_

*Inventor's signature*

\_\_\_\_\_

*Date of signature* \_\_\_\_\_

*Citizenship*

\_\_\_\_\_

*Residence*

\_\_\_\_\_

*Post Office Address*

\_\_\_\_\_

*Full name of additional  
joint inventor (if any)*

\_\_\_\_\_

*Inventor's signature*

\_\_\_\_\_

*Date of signature* \_\_\_\_\_

*Citizenship*

\_\_\_\_\_

*Residence*

\_\_\_\_\_

*Post Office Address*

\_\_\_\_\_

*Full name of additional  
joint inventor (if any)*

\_\_\_\_\_

*Inventor's signature*

\_\_\_\_\_

*Date of signature* \_\_\_\_\_

*Citizenship*

\_\_\_\_\_

*Residence*

\_\_\_\_\_

*Post Office Address*

\_\_\_\_\_

# Exhibit D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang

Serial No. : 10/821,710 Examiner: Schnizer, Richard A.

Filed : April 8, 2004 Art Unit: 1635

For : CONTROL OF GENE EXPRESSION

1185 Avenue of the Americas  
New York, New York 10036

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

CONSENT OF ASSIGNEE UNDER 37 C.F.R. §3.73

1. Commonwealth Scientific And Industrial Research Organisation ("CSIRO") is the assignee of all rights and interests in the above-identified invention and patent application by virtue of an Assignment from State Of Queensland Through Its Department Of Primary Industries recorded on February 13, 2004 with the U.S. Patent Office at reel number 014340, frames 0438-0444, and an Assignment from Benitec Australia Limited. A copy of the signed Assignment from State Of Queensland Through Its Department Of Primary Industries is attached hereto as Exhibit 1 and the Assignment from Benitec Australia Limited is attached hereto as Exhibit 2. A copy of the Notice of Recordation of Assignment Document issued by the U.S. Patent and Trademark Office in connection with the parent application of the subject invention and patent application is attached hereto as Exhibit 3 indicating that the State Of Queensland Through Its Department Of Primary Industries and Benitec

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang  
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Page 2 of 2 of Consent Of Assignee Under 37 C.F.R. §3.73

Australia Limited obtained rights and interests in the above-identified invention and patent application by virtue of an assignment from the currently named inventors, Michael Wayne Graham and Robert Norman Rice.

2. CSIRO hereby consents to the addition of Peter Michael Waterhouse and Ming-Bo Wang as named inventors on the subject application.
3. I am an official authorized to sign this consent on behalf of CSIRO.

Commonwealth Industrial And Industrial Research Organisation

By: *R de Feyer* Date: *26/09/07*  
Robert C de Feyer  
Intellectual Property Manager  
CSIRO Plant Industry

# **EXHIBIT 1**

BLAKE DAWSON WALDRON  
P A T E N T   S E R V I C E S

# Deed of Assignment

**State of Queensland**  
through its Department of Primary Industries

**Commonwealth Scientific and Industrial Research Organisation**

Blake Dawson Waldron Patent Services  
Level 39, 101 Collins Street  
Melbourne VIC 3000  
Telephone +61 3 9679 3065  
Fax +61 3 9679 3111

Ref: WJP IP CLN 1303 9625

© Blake Dawson Waldron Patent Services 2003

Applicants  
U S Serial No  
Filed

Michael Wayne Graham et al.  
10/821,710  
April 8, 2004

Exhibit 1

## ASSIGNMENT OF APPLICATIONS AND PATENTS

DATE 8 December 2003

### PARTIES

**State of Queensland** through its Department of Primary Industries, of Primary Industries Building, 80 Ann Street, Queensland (Assignor)

**Commonwealth Scientific and Industrial Research Organisation** a body corporate established by the Commonwealth Science and Research Act 1949 and having its principal office at Limestone Avenue, Campbell in the Australian Capital Territory (Assignee)

### RECITALS

The Assignor assigns all of its rights and interests in the Applications and Patents set out in the attached Schedule to the Assignee, on the terms set out in this Deed of Assignment.

### OPERATIVE PROVISIONS

#### 1. DEFINITIONS

The following definitions apply in this document.

**Applications** means the patent applications described in the Schedule and any divisional applications from any of them and any amendments, continuations or continuations-in-part of any of them.

**Benitec Australia Limited**, ACN 080 299 645, of Suite 4, 242 Hawken Drive, St Lucia, Queensland (Benitec Australia).

**Patents** means the registered patents described in the Schedule and any divisional applications from any of them and any amendments, extensions, re-issues, or re-grants of any of them.

#### 2. ASSIGNMENT

In consideration of the sum of \$1 and other good and valuable consideration now paid by the Assignee to the Assignor, receipt of which the Assignor acknowledges, the Assignor, as beneficial owner, assigns to the Assignee all its rights and interests in:

- (a) the Applications; and
- (b) the Patents.

#### 3. REGISTRATION

The Assignor undertakes at the expense of the Assignee to do all acts and execute all documents necessary to ensure that the Applications and the Patents will issue jointly in the names of Benitec Australia Limited and the Assignee. In the event of default by the Assignor to perform such acts or execute necessary documents, but only after the Assignor has been given a proper and reasonable opportunity to perform the acts or

3.

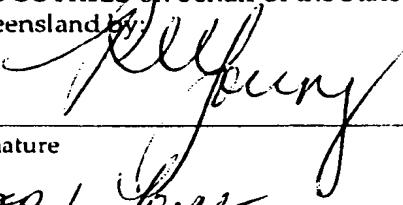
execute the documents, the Assignor appoint the nominee of the Assignee as the Assignor's attorney for that purpose.

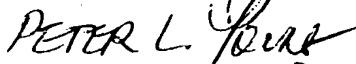
**4. GOVERNING LAW**

This Deed is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED as a deed this 8<sup>th</sup> day of December 2003

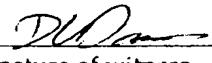
EXECUTED for and on behalf of the  
**DEPARTMENT OF PRIMARY**  
**INDUSTRIES** on behalf of the State of  
Queensland by:

  
Signature

  
PETER L. YOUNG

Name and position

  
Director Biotechnology  
DPI

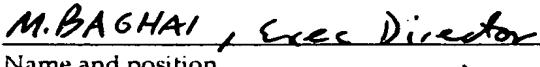
  
Signature of witness

  
Debra Davis

Name of witness

EXECUTED for and on behalf of the  
**COMMONWEALTH SCIENTIFIC AND**  
**INDUSTRIAL RESEARCH**  
**ORGANISATION** by:

  
Signature

  
M. BAGHAI, Exec. Director  
Name and position

BD: C

  
Signature of witness

  
J. STEER

Name of witness

**AGREEMENT TO ASSIGNMENT**

Benitec Australia Limited, ACN 080 299 645, of Suite 4, 242 Hawken Drive, St Lucia, Queensland hereby acknowledges its agreement to the assignment set out above.

SIGNED, SEALED AND AFFIRED for and on behalf of Kel Jan  
~~THE COMMON SEAL of BENITEC~~  
~~AUSTRALIA LIMITED, the fixing of~~  
which was witnessed by:

  
\_\_\_\_\_  
Signature of director

Tom A. McKinley  
\_\_\_\_\_  
Name

  
\_\_\_\_\_  
Signature of director/secretary

KEN C. REED  
\_\_\_\_\_  
Name

**SCHEDULE  
APPLICATIONS AND PATENTS**

**Granted Patents**

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. ZA 2000/4507.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. AU 2001100608.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. SG 75542.

Graham, M.W. and Rice, R.N. (2003) Genetic constructs for delaying or repressing the expression of a target gene. US 6,573,099.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. GB 2353282.

**Accepted Patents**

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. AU 743316.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. NZ 506648.

**Patent Applications**

Graham, M. W. and Rice, R.N. (US 09/997/905) Synthetic Genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (US 10/346,853) Synthetic genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (WO 99/49029 (PCT / AU/99/00195)) Control of gene expression.

Graham, M.W. and Rice, R.N. (BR PI9908967-0) Control of gene expression.

Graham, M.W. and Rice, R.N. (CA 2,323,726) Control of gene expression.

Graham, M.W. and Rice, R.N. (CN 99804255-2) Control of gene expression.

Graham, M.W. and Rice, R.N. (CZ PV2000-3346) Control of gene expression.

Graham, M.W. and Rice, R.N. (EP 99910039.9) Control of gene expression.

Graham, M.W. and Rice, R.N. (HK 01105904.3) Control of gene expression.

Graham, M.W. and Rice, R.N. (HU PO101225) Control of gene expression.

Graham, M.W. and Rice, R.N. (IN 2000/00169/DEL) Control of gene expression.

Graham, M.W. and Rice, R.N. (JP P2000-537990) Control of gene expression.

Graham, M.W. and Rice, R.N. (KR 7010419/2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (MX 008631) Control of gene expression.

Graham, M.W. and Rice, R.N. (PL P.343064) Control of gene expression.

Graham, M.W. and Rice, R.N. (SK PV1372-2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 95225/01) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 35647/02) Control of gene expression.

Graham, M.W. and Rice, R.N. (NZ 525941) Control of gene expression.

Graham, M.W. and Rice, R.N. (SG 200205122-5) Control of gene expression.

Graham, M.W. and Rice, R.N. (US 09/646,807) Control of gene expression.

**Priority Documents**

Graham, M.W. (1998) Synthetic genes and genetic constructs comprising same I. AU PP2492/98.

Graham, M.W. and Rice, R.N. (1998) Gene expression I. AU PP2499/98.

## **EXHIBIT 2**

# Deed of Assignment

**Genitec Australia Limited**

**Commonwealth Scientific and Industrial Research Organisation**

Applicants : Michael Wayne Graham et al.  
U.S. Serial No. : 10/821,710  
Filed : April 8, 2004

Exhibit 2

Deed of Assignment

DATE 21 August 2006

PARTIES

Benitec Australia Limited, ACN 080 299 645, of C/- Adsto International, Adsto House, 401 New Canterbury Road, P.O. Box 20, Dulwich Hill, NSW, Australia 2203 (Assignor)

Commonwealth Scientific and Industrial Research Organisation a body corporate established by the Commonwealth Science and Research Act 1949 and having its principal office at Limestone Avenue, Campbell in the Australian Capital Territory (Assignee).

RECITALS

The Assignor assigns all of its right, title and interest in and to the Applications and Patents set out in the attached Schedule to the Assignee, on the terms set out in this Deed of Assignment.

OPERATIVE PROVISIONS

1. DEFINITIONS

The following definitions apply in this document.

Applications means the patent applications described in the Schedule and any divisional applications from any of them and any amendments, continuations or continuations-in-part of any of them, and any patent that issues from any of the patent applications.

Patents means the registered patents described in the Schedule and any divisional applications from any of them and any amendments, extensions, re-issues, or re-grants of any of them.

2. ASSIGNMENT

In consideration of the sum of \$1 and other good and valuable consideration now paid by the Assignee to the Assignor, the receipt and sufficiency of which the Assignor acknowledges, the Assignor, as beneficial owner, assigns to the Assignee all of its right, title and interest in and to:

- (a) the Applications; and
- (b) the Patents;

and to the extent that any of the Applications or the Patents have previously been assigned by the Assignor to the Assignee, the Assignor and the Assignee hereby confirm such previous assignment.

3. REGISTRATION

The Assignor undertakes at the expense of the Assignee to do all acts and execute all documents necessary to ensure that the Applications and the Patents will issue in the sole

3.

name of the Assignee. In the event of default by the Assignor to perform such acts or execute necessary documents, but only after the Assignor has been given a proper and reasonable opportunity to perform the acts or execute the documents, the Assignor appoint the nominee of the Assignee as the Assignor's attorney for that purpose.

4. GOVERNING LAW

This Deed is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED as a deed this 21<sup>st</sup> day of August 2006.

EXECUTED for and on behalf of BENITEC  
AUSTRALIA LIMITED by:



Signature

Peter Francis, Chairman

Name and position



Signature of witness

Richard Aarons

Name of witness

Subscribed and sworn to before me this 21<sup>st</sup> day of August 2006.

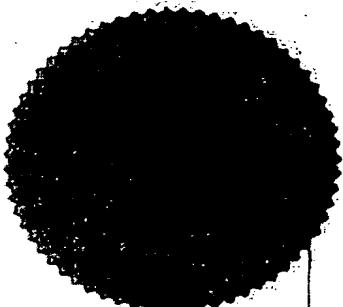
(Notarial Seal)

By:



Notary Public

EMILIOS JOHN KYROU  
PUBLIC NOTARY  
LEVEL 50, 600 BOURKE STREET  
MELBOURNE 3000 VICTORIA AUSTRALIA  
TEL: (03) 9643 4184 FAX: (03) 9643 5999  
EMAIL: emilios.kyrou@malleons.com



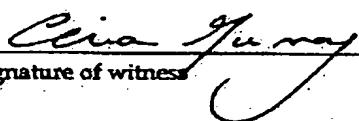
EXECUTED for and on behalf of the  
COMMONWEALTH SCIENTIFIC AND  
INDUSTRIAL RESEARCH  
ORGANISATION by:



Signature

Dr Jack Steele  
Chief of Staff  
CSIRO Business Services

Name and position



Signature of witness



Name of witness

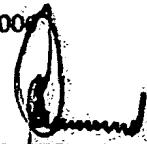
Subscribed and sworn to before me this 21<sup>st</sup> day of August 2000  
(Notarial Seal)



By

Notary Public

GREGORY NORMAN HAMMOND  
NOTARY PUBLIC  
SYDNEY



## SCHEDULE

## APPLICATIONS AND PATENTS

Graham, M.W. and Rice, R.N. Control of gene expression. US 10/646,070.

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. ZA 2000/4507.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. AU 2001100608.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. SG 75542.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. GB 2353282.

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. AU 743316.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. NZ 506648.

Graham, M.W. and Rice, R.N. (US 09/997,905) Synthetic genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (US 10/346,853) Synthetic genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (WO 99/49029 (PCT/AU99/00195)) Control of gene expression.

Graham, M.W. and Rice, R.N. (BR PI9908967-0) Control of gene expression.

Graham, M.W. and Rice, R.N. (CA 2,323,726) Control of gene expression.

Graham, M.W. and Rice, R.N. (CN 99804255-2) Control of gene expression.

Graham, M.W. and Rice, R.N. (CZ PV2000-3346) Control of gene expression.

Graham, M.W. and Rice, R.N. (EP 99910039.9) Control of gene expression.

Graham, M.W. and Rice, R.N. (HK 01105904.3) Control of gene expression.

Graham, M.W. and Rice, R.N. (HU P0101225) Control of gene expression.

Graham, M.W. and Rice, R.N. (IN 2000/00169/DEL) Control of gene expression.

Graham, M.W. and Rice, R.N. (JP P2000-537990) Control of gene expression.

Graham, M.W. and Rice, R.N. (KR 7010419/2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (MD 008631) Control of gene expression.

Graham, M.W. and Rice, R.N. (PL P.343064) Control of gene expression.

Graham, M.W. and Rice, R.N. (SK PV1372-2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 95225/01) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 35647/02) Control of gene expression.

Australian Patent Publication No. 2005209648.

Australian Patent Publication No. 2005211538.

Graham, M.W. and Rice, R.N. (NZ 525941) Control of gene expression.

New Zealand Patent Application No. 536674.

New Zealand Patent Application No. 547283

Graham, M.W. and Rice, R.N. (SG 200205122-5) Control of gene expression.

Graham, M.W. and Rice, R.N. (US 09/646,807) Control of gene expression.

US Patent Application No. 10/759,841.

US Patent Application No. 10/821,710.

US Patent Application No. 10/821,726.

Graham, M.W. (1998) Synthetic genes and genetic constructs comprising same I. AU PP2492/98.

Graham, M.W. and Rice, R.N. (1998) Gene expression I. AU PP2499/98.

Australian Patent Publication No. 2005202658

Brazil Patent Application No. PI9917642-4

Canada Patent Application No. 2513336

China Patent Application No. 200510083325.1

Europe Patent Application No. 05013010.3

Hungary Patent Application No. P0500631

India Patent Application No. 3413/DELNP/2005

Japan Patent Application No. 2005-223953

Mexico Patent Application No. PA/a/2005/006838

Poland Patent Application No. P.377017

Singapore Patent Application No. 200503921-9

South Korea Patent Application No. 7005341/2006

United States Patent Application No. 11/180,928 (Published as US20050250208)

United States Patent Application No. 11/218,999 (Published as US20060014715)

and any other patent or patent application claiming priority from PP2492 or PP2499, US Patent Application Numbers 09/100,812, or 09/100,813 and divisional applications from any of the patents and patent applications listed in this Schedule and any amendments, continuation or continuation-in-part applications, extensions, re-issues or re-grants of or to all or any of the patents and patent applications listed in this Schedule together with any renewal, division, continuation, continued prosecution application or continuation-in-part of any of such patents, certificates and applications, any and all patents or certificates of invention issuing thereon, and any and all reissues, re-examinations, extensions, divisions, renewals, substitutions, confirmations, registrations, re-validations, revisions, and additions of or to any of the foregoing, and any foreign counterparts of any of the foregoing, but with the sole exception of US Patent Number 6,573,099.

## **EXHIBIT 3**



JUNE 24, 2003

MORRISON & FOERSTER LLP  
 MICHAEL R. WARD  
 425 MARKET STREET  
 SAN FRANCISCO, CA 94105-2482

UNITED STATES DEPARTMENT OF COMMERCE  
 Patent and Trademark Office  
 ASSISTANT SECRETARY AND COMMISSIONER  
 OF PATENTS AND TRADEMARKS  
 Washington, D.C. 20231

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\*700034187A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
 NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 06/23/2003

REEL/FRAME: 013753/0409

NUMBER OF PAGES: 3

BRIEF: CORRECTIVE ASSIGNMENT TO CORRECT THE FIRST ASSIGNEE'S ADDRESS, PREVIOUSLY RECORDED AT REEL 011352 FRAME 0325.

ASSIGNOR:  
 GRAHAM, MICHAEL WAYNE

DOC DATE: 10/19/2000

ASSIGNOR:  
 RICE, ROBERT NORMAN

DOC DATE: 10/19/2000

ASSIGNEE:  
 BENITEC AUSTRALIA LIMITED  
 P.O. BOX 4193  
 ST. LUCIA SOUTH, AUSTRALIA QLD 4067

ASSIGNEE:  
 STATE OF QUEENSLAND THROUGH ITS  
 DEPARTMENT OF PRIMARY INDUSTRIES  
 80 ANN STREET, BRISBANE  
 QUEENSLAND, AUSTRALIA 4000

SERIAL NUMBER: 09646807  
 PATENT NUMBER:

FILING DATE: 12/05/2000  
 ISSUE DATE:

Applicants : Michael Wayne Graham et al.  
 U.S. Serial No. : 10/821,710  
 Filed : April 8, 2004

Exhibit 3

013753/0409 PAGE 2

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KIMBERLY WHITE, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS